

**SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM**

**SUBJECT:** Approval of a Decorative Sign Agreement Between Seminole County and Markham Place Homeowners Association, Inc.

**DEPARTMENT:** Public Works

**DIVISION:** Traffic Engineering

**AUTHORIZED BY:** Gary Johnson

**CONTACT:** Melonie Barrington

**EXT:** 5676

**MOTION/RECOMMENDATION:**

Approve and authorize the Chairman to execute the Markham Place Homeowners Association, Inc. Decorative Sign Agreement between Seminole County and Markham Place Homeowners Association, Inc.

District 5 Brenda Carey

Melonie Barrington

**BACKGROUND:**

The residents of Markham Place currently have stop signs mounted on non-standard posts. In order to meet Seminole County's requirements for traffic signage, it is necessary for the Markham Place Homeowners Association, Inc. (HOA) to enter into a Decorative Sign Agreement with the County for installation of decorative posts with regulatory signs within its subdivision.

This Agreement identifies the responsibilities of the County and the HOA. The Agreement requires the HOA to pay for any increased costs relating in any way to the non-standard posts, signage and associated structures.

**STAFF RECOMMENDATION:**

Staff recommends that the Board approve and authorize the Chairman to execute the Signage Agreement between Seminole County and Markham Place Homeowners Association, Inc.

**ATTACHMENTS:**

1. Markham Place HOA, Inc., Decorative Sign Agreement

<p><b>Additionally Reviewed By:</b></p> <p><input checked="" type="checkbox"/> County Attorney Review ( Susan Dietrich )</p>
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**MARKHAM PLACE HOMEOWNERS ASSOCIATION, INC.  
DECORATIVE SIGN AGREEMENT**

**THIS AGREEMENT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by and between **SEMINOLE COUNTY**, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as "COUNTY", and **MARKHAM PLACE HOMEOWNERS ASSOCIATION, INC.**, a Florida non profit corporation, whose address is 220 Hunters Trail, Longwood, Florida 32779, hereinafter referred to as "MARKHAM PLACE".

**W I T N E S S E T H:**

**WHEREAS**, COUNTY has the responsibility to place and maintain, as appropriate, street and traffic signage on COUNTY roads; and

**WHEREAS**, MARKHAM PLACE desires to utilize sign posts and signage that are not the standard used by the COUNTY, for aesthetic reasons, in that certain residential area of Seminole County known as the MARKHAM PLACE subdivision; and

**WHEREAS**, MARKHAM PLACE has agreed to install and maintain such non-standard posts and signage and pay for any increased costs relating in any way to the non-standard posts, signage and associated structures; and

**WHEREAS**, COUNTY has agreed to enter into this Agreement subject to the COUNTY's continuing ability to protect the public's health, safety and welfare.

**NOW, THEREFORE**, in consideration of the mutual covenants understandings, and promises set forth herein, MARKHAM PLACE and COUNTY agree as follows:

**Section 1. Purpose.** The purpose of this Agreement is to establish the terms and conditions by which COUNTY shall permit MARKHAM

PLACE to utilize non-standard posts and street signage and to install and maintain such posts and signage.

**Section 2. Term.** This Agreement shall become effective upon execution by all parties and terminate on the same date five (5) years hence. The Agreement shall automatically be renewed thereafter for successive periods of one (1) year each, unless earlier terminated as provided herein.

**Section 3. Termination.** This Agreement may be terminated by either party at any time, with or without cause, upon not less than sixty (60) days' written notice delivered to the other party or, at the option of COUNTY, immediately in the event that MARKHAM PLACE fails to fulfill any of the terms, understandings or covenants of this Agreement.

**Section 4. Signage.**

(a) MARKHAM PLACE shall acquire and install, at its sole cost, the posts at the signage locations established by COUNTY in the subdivision as depicted in Exhibit "A", attached hereto and incorporated herein. MARKHAM PLACE shall attach, at its sole cost, the street and traffic signage provided or approved by COUNTY to such posts.

(b) COUNTY reserves the right to make any and all final decisions with regard to all post and signage installations. Request for permission to install the above-referenced posts and signage shall be in writing by MARKHAM PLACE to COUNTY and include the following information:

- (1) the type of post to be installed;
- (2) the location of the posts; and
- (3) the authorized signature of the individual making the request on behalf of MARKHAM PLACE.

(c) It shall be the sole and exclusive obligation of MARKHAM PLACE to replace lost, stolen, or damaged posts with replacement posts

unless MARKHAM PLACE requests that COUNTY reinstate its standard signage program. Such request by MARKHAM PLACE shall be in writing and with no less than thirty (30) days' advance written notice.

**Section 5. Final Signage Plans and Related Matters.**

(a) MARKHAM PLACE shall provide COUNTY with the proposed design plans and specifications for all posts to be installed and COUNTY shall review the plans and specifications and respond appropriately. COUNTY shall be the sole and exclusive party with approval authority as to all final plans and specifications. Prior to commencement of any installation activities by MARKHAM PLACE, COUNTY's written approval must be obtained.

(b) Signage standards shall be as follows:

(1) MARKHAM PLACE shall comply with applicable signage installation and maintenance regulations set forth in the Manual on Uniform Traffic Control Services promulgated by the United States Department of Transportation Federal Highway Administration; Chapter 316, Florida Statutes; Chapter 250, Seminole County Code; and Seminole County Land Development Code Appendix A.

(2) Method for obtaining replacement signage from COUNTY: faded or damaged signs may be traded on a one (1) for one (1) basis at any reasonable time during a COUNTY workday from 7:00 a.m. to 3:30 p.m. Arrangements must be made, in advance, by telephone with COUNTY's Traffic Engineer. The signage provided by COUNTY shall be COUNTY's standard signage.

(3) Emergency Procedures.

(A) COUNTY's Traffic Engineer operates a twenty-four (24) hour sign service for damaged or stolen traffic regulatory signs such as stop signs, yield signs and do not enter signs as well as some warning signs such as turn signs with speed advisory or chevron curve

signs. In emergency situations when MARKHAM PLACE cannot immediately replace its signage, MARKHAM PLACE shall request emergency signage by contacting COUNTY's emergency contact and advising the individual of the emergency.

(B) When notified by the Seminole County Sheriff's Office or another responsible third party that any of the MARKHAM PLACE signage depicted in Exhibit "A" is downed or damaged, COUNTY shall replace such signage with appropriate standard COUNTY signage. COUNTY shall notify MARKHAM PLACE as soon as is reasonably possible of the replacement signage. In turn, MARKHAM PLACE shall advise COUNTY of its standard signage repair/replacement schedule for the restoration of MARKHAM PLACE signage.

**Section 6. Maintenance and Operation.** Upon installation of the posts and attachment of the signage, MARKHAM PLACE shall maintain full responsibility for maintenance and operation of signage subject to the provisions of this Agreement.

**Section 7. Level of Maintenance.** MARKHAM PLACE shall maintain the signage in accordance with all COUNTY policies. MARKHAM PLACE shall record all maintenance activities relative to the signage on a COUNTY approved log sheet and provide a copy of same to COUNTY on the first day of each month after maintenance has been performed.

**Section 8. Repair, Modification and Replacement.** It is hereby understood and agreed by the parties hereto that COUNTY may remove the signage for repair wherever it deems, in its sole and exclusive discretion, that such action would be in the public interest. MARKHAM PLACE shall not replace or make any modifications, excluding normal maintenance activities, to the signage without COUNTY's prior written approval, except in clear emergency situations in which case COUNTY shall be immediately notified.

**Section 9. Level of Service.** It is expressly understood and agreed by the parties hereto that the effect of the posts must be such that traffic will be properly handled. Necessary modifications or replacements may be made by COUNTY, at its sole cost, to accommodate the changing needs of traffic whenever it deems such action appropriate in its sole and exclusive discretion.

**Section 10. Agreement in Force.** It is understood and agreed to by the parties hereto that this Agreement shall, to the extent permitted by law, remain in force during the life of the original installed posts and any replacement posts installed by MARKHAM PLACE with the consent of COUNTY.

**Section 11. Indemnification.** MARKHAM PLACE does hereby indemnify and hold harmless COUNTY from any and all liability, costs, claims and judgment, including, but not limited to, attorneys' fees whether resulting from litigation or not, arising out of or allegedly arising out of this Agreement in any way for the design, placement, installation, modification, use, reinstallation or replacement of the posts due to the acts or omissions of MARKHAM PLACE, its officers, members, contractors, subcontractors, workers, employees, agents, guests, or representatives, respectively. MARKHAM PLACE further agrees to cause the posts to be covered by such insurance as may be required by COUNTY.

**Section 12. Insurance.**

(a) MARKHAM PLACE shall provide, pay for, and maintain in force at all times during the term of this Agreement, such insurance, including Workers' Compensation Insurance, if applicable, General Liability Insurance and Property Damage Insurance as will provide to COUNTY the protection contained in the foregoing indemnification provision.

(b) Policies other than Workers' Compensation shall be issued only by companies authorized by certificates of authority issued to the companies by the Department of Insurance of the State of Florida to conduct business in the State of Florida and which maintain a Best's Rating of "A-" or better and a Financial Size Category of "VII" or better according to the A.M. Best Company. Policies for Workers' Compensation, if applicable, may be issued by companies authorized as a group self-insurer by Section 624.4621, Florida Statutes.

(c) MARKHAM PLACE shall specifically protect COUNTY by either naming the COUNTY as an additional insured under such policies, or, in the alternative, by providing an endorsement in accordance with the indemnification provision of Section 11. Such policies shall contain, as a minimum, the following provisions, coverages and policy limits of liability:

(1) General Liability Insurance. MARKHAM PLACE shall carry limits of not less than THREE HUNDRED THOUSAND AND NO/100 DOLLARS (\$300,000.00) for injuries, including accidental or wrongful death to any one person, and, subject to the same limit for each person, in an amount not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) on account of any one (1) occurrence.

(d) Prior to commencement of work hereunder, MARKHAM PLACE shall furnish to COUNTY a certificate of written statement of the above required insurance. The policies evidencing required insurance shall contain an endorsement to the effect that cancellation or any material change in the policies adversely affecting the interests of COUNTY in such insurance shall not be effective until thirty (30) days' after written notice thereof to COUNTY. COUNTY may require a certified copy of such policies to be delivered by MARKHAM PLACE.

(e) If, during the period which an insurance company is providing the insurance coverage required by this Agreement, an insurance company shall: 1) lose its Certificate of Authority; 2) no longer comply with Section 624.4621, Florida Statutes; or 3) fail to maintain the Best's Rating and Financial Size Category, MARKHAM PLACE shall, as soon as MARKHAM PLACE has knowledge of any such circumstance, immediately notify COUNTY and immediately replace the insurance coverage provided by the insurance company with a different insurance company meeting the requirements of this Agreement. Until such time as MARKHAM PLACE has replaced the unacceptable insurer with an insurer acceptable to COUNTY, MARKHAM PLACE shall be deemed to be in default of this Agreement.

(f) The maintenance of the insurance coverage set forth herein shall not be construed to limit liability of MARKHAM PLACE under the provisions of Section 11.

(g) MARKHAM PLACE agrees to insert the substance of this Section, including this subsection (g) in all contracts and subcontracts hereunder.

**Section 13. Public Records.** MARKHAM PLACE shall allow public access to all documents, papers, letters or other material which are made or received in conjunction with this Agreement subject to the provisions of Chapter 119, Florida Statutes. Failure by MARKHAM PLACE to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement.

**Section 14. Prior Agreements Superseded.** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained or referred to in this document.

**Section 15. Assignments.** Neither of the parties to this Agreement shall assign this Agreement, nor any interest arising herein, without the written consent of the other party.

**Section 16. Modifications, Amendments or Alterations.** No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

**Section 17. Severability.** If any provision of this Agreement or the application thereof to any person or circumstance is held invalid, it is the intent of the parties that the invalidity shall not affect other provisions or applications of this Agreement which can be given effect without the invalid provision or application, and to this end the provisions of this Agreement are declared severable.

**Section 18. Independent Contractor.** It is agreed that nothing herein contained is intended or should be construed as in any manner creating or establishing a relationship of employee, contractor, agent, representative, partner or any similar relationship between the parties, or as constituting MARKHAM PLACE, including its officers, employees and agents, the partner, agent, contractor, representative or employee of COUNTY for any purpose or in any manner whatsoever. MARKHAM PLACE is to be and shall remain forever an independent agency, entity and organization with respect to all matters arising under this Agreement.

**Section 19. Disclaimer of Third Party Beneficiaries.** This Agreement is made for the sole benefit of the parties hereto and their respective successors and assigns and is not intended to and shall not benefit any third party. No third party shall have any rights hereunder or as a result of this Agreement or any right to enforce any provisions of this Agreement.

**Section 20. Representative of COUNTY and MARKHAM PLACE.**

(a) It is recognized that questions in the day-to-day conduct of performance pursuant to this Agreement will arise. COUNTY, upon request by MARKHAM PLACE, shall designate in writing and shall advise MARKHAM PLACE in writing of one (1) or more COUNTY employees to whom all communication pertaining to the day-to-day conduct of the Agreement shall be addressed. The designated representative shall have the authority to transmit instructions, receive information and interpret and define COUNTY's policy and decisions pertinent to the work covered by this Agreement.

(b) MARKHAM PLACE shall, at all times, designate or appoint one (1) or more representatives of MARKHAM PLACE who are authorized to act in behalf of MARKHAM PLACE regarding all matters involving the conduct of the performance pursuant to this Agreement and shall keep COUNTY continually and effectively advised of such designation.

(c) The undersigned persons signing on behalf of MARKHAM PLACE represent that he is the designated officer or general partner acting for MARKHAM PLACE; that this document has been revised and duly approved for execution by all necessary officers or directors of the named entity for which (s)he purports to sign with all the formalities required by law for such named entity to enter into a binding agreement; and that the respective entity has likewise authorized the undersigned to bind MARKHAM PLACE to the terms and conditions contained in this Agreement.

**Section 19. Notices.** Whenever either party desires to give notice unto the other, it must be given by written notice, sent by certified United States mail, with return receipt request as follows:

**For COUNTY:**

Seminole County Traffic Engineer  
Department of Public Works  
Traffic Engineering Division  
1101 East First Street  
Sanford, Florida 32773

**For MARKHAM PLACE:**

Markham Place Homeowners Association, Inc.  
220 Hunters Trail  
Longwood, Florida 32779

Either party may change, by written notice as provided herein, the address or person for receipt of notice.

**Section 20. Compliance with Law.** MARKHAM PLACE agrees to comply with all Federal, State and local laws, rules and regulations.

**IN WITNESS THEREOF,** the parties have caused these presents to be executed this 28 day of September, 2009.

ATTEST:

MARKHAM PLACE HOMEOWNERS  
ASSOCIATION, INC.

Nancy D. Schmitt  
NANCY SCHMITT, Secretary

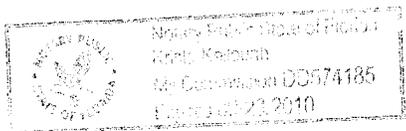
By: Glenn Brunskill  
GLENN BRUNSKILL, President

(CORPORATE SEAL)

Date: 09/28/09

STATE OF FLORIDA ]  
COUNTY OF ORANGE ]

The foregoing instrument was acknowledged before me this 28 day of SEPT, 2009, by GLENN BRUNSKILL and NANCY SCHMITT, as President and Secretary, respectively, of Markham Place Homeowners' Association, Inc. who are  personally known to me or  who have produced \_\_\_\_\_ as identification. They have acknowledged before me that they have executed the foregoing instrument as such managing members in the name and on behalf of Markham Place Homeowners Association, Inc.



[Signature]  
Print Name \_\_\_\_\_  
Notary Public in and for the County  
And State aforementioned  
My commission expires: \_\_\_\_\_

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA

\_\_\_\_\_  
MARYANNE MORSE  
Clerk to the Board of  
County Commissioners of  
Seminole County, Florida.

By: \_\_\_\_\_  
BOB DALLARI, Chairman

Date: \_\_\_\_\_

For the use and reliance  
of Seminole County only.  
Approved as to form and  
legal sufficiency.

As authorized for execution by the Board  
of County Commissioners at its \_\_\_\_\_,  
2009, regular meeting.

\_\_\_\_\_  
County Attorney  
SED/lpk  
7/15/09

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Attachment:

Exhibit "A" - Signage Location Map

Markham Place  
Decorative Post Agreement  
Existing Signs  
7/14/09  
District 5  
Exhibit A



- - Stop sign
- - Speed Limit 25

